





Kentucky Department of Education

Discipline Procedures and Behavioral Supports for Students with Disabilities

Office of Special Education and Early Learning

March 28, 2019

2004 Reauthorization of IDEA

- In 2004, Congress made major changes to the Individuals with Disabilities Education Act (IDEA).
- Several changes were in the area of disciplining students with disabilities.
- The Kentucky Administrative Regulations (KARs) incorporated these changes at 707 KAR Chapter 1.



What is a Disciplinary Removal?

- ▶ Any instance in which a child with a disability is **removed from his/her educational placement for disciplinary purposes**, including *in-school suspension, out-of-school suspension, expulsion, removal by school personnel to an Interim Alternative Educational Setting (IAES)* for drug or weapon offenses or serious bodily injury, and *removal by hearing officer* for likely injury to the child or others.



Types of Removals

- ▶ **Expulsion** - An action taken by the Local Education Agency (LEA) **removing a child from his/her regular school for disciplinary purposes** for the remainder of the school year or longer in accordance with LEA policy. Include removals resulting from violations of the Gun-Free Schools Act that are modified to less than 365 days.
- ▶ **In-School Suspensions** - Instances in which a child is temporarily **removed from his/her regular classroom(s) for disciplinary purposes** but remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as students under their supervision.
- ▶ **Out-of-School Suspensions** - Instances in which a child is temporarily **removed from his/her regular school for disciplinary purposes** to another setting (e.g., home, behavior center). This includes both removals in which no Individualized Education Program (IEP) services are provided because the removal is 10 days or less as well as removals in which the child continues to receive services according to his/her IEP.



IDEA and Discipline



School Personnel May:

- ▶ Remove the student to an IAES.
- ▶ Suspend for not more than 10 consecutive school days... to the extent the measures are applied to students without disabilities and as long as the removals do not constitute a change in placement

The ARC Shall:

- ▶ Determine the setting of the IAES, with IAES staff invited to the meeting.
- ▶ Consider any unique circumstances on a case-by-case basis when deciding whether to change the student's placement.

IDEA and Discipline (*Continued*)



- ▶ What is a change in placement because of a disciplinary removal?
 - More than 10 consecutive days, or
 - A series of removals that constitutes a pattern.
- ▶ What is a Pattern of Behavior?
 - The number of days removed total more than 10 cumulative days in a school year, and
 - The behavior is substantially similar to behavior in previous incidents.
 - ✓ Consider: length of removals, amount of time removed, and closeness of removals.

IDEA and Discipline (*Continued*)

- ▶ If the removal is for not more than 10 consecutive school days and is not a change in placement, school personnel in consultation with at least one of the student's teachers shall determine the extent to which services are needed.
- ▶ The district is only required to provide services during periods of removal to a student with a disability who has been removed 10 school days or less in that school year, if it provides services to students without disabilities who are similarly removed.



IDEA and Discipline (*Continued*)

In-school suspension (removals) do not count as part of the 10-day limit for manifestation determination only when these conditions are met:

1. Afforded the opportunity to continue to appropriately participate in the general curriculum;
2. Continue to receive the services on his or her IEP;
and
3. Continue to participate with non-disabled children to the extent they would have in their current placement.



Manifestation Determination

- ▶ If a student commits a violation of school rules and the decision is made to change placement, a manifestation determination meeting must be held with relevant Admissions and Release Committee (ARC) members.
- ▶ The ARC must review relevant data during the manifestation determination:
 - The IEP;
 - Teacher observations;
 - Teacher-collected data; and
 - Relevant information provided by parents.



Manifestation Determination (*Cont.*)



- ▶ The ARC determines:
 - If the conduct was caused by or had a direct and substantial relationship to the student's disability, **OR**
 - If the conduct was the direct result of the district's failure to implement the appropriate IEP.
- ▶ If the answer to either of these is **YES**, then the behavior **is a manifestation** of the student's disability and means the **district must take immediate steps....**

Manifestation Determination (*Cont.*)

- ▶ Following the manifestation determination meeting that revealed the behavior was a manifestation of the student's disability, the ARC must:
 - Conduct or review the functional behavior assessment (FBA);
 - Conduct or review behavioral intervention plan designed to address the behavior at issue;
 - Return the student to the original placement unless the current placement was agreed upon by the parents and district



Manifestation Determination (*Cont.*)

- ▶ If the behavior that violated the Code of Conduct is not a manifestation of the student's disability, the student may be disciplined in the same manner for the same duration as students without disabilities.

*** Note:** *IDEA does not allow for the cessation of educational services, even when a student has been expelled.*



“Protections for Children Not Yet Eligible” Under the IDEA

- ▶ A district is assumed to have a *basis of knowledge* that a student has a disability, even if the student has not been identified under IDEA if:
 - The parent expressed in writing (orally if the parent cannot express in writing) that the student needed special education to district staff;
 - The parent has requested an initial evaluation;
 - The student’s teacher or district personnel expressed concern about a pattern of behavior to the DoSE or other supervisors.



General Supervision



Statewide Discipline Data Review



- ▶ The Office of Special Education and Early Learning (OSEEL) conducted a review of IDEA discipline data and discovered concerning patterns with the:
 - development and implementation of appropriate IEPs for students whose behavior impedes their learning or that of others;
 - implementation of discipline policies, procedures and practices consistent with federal and state requirements;
 - collection and reporting of accurate discipline data in IC to meet federal and state requirement.

** These concerns led to the discipline being the focus for consolidated monitoring for the 2018-19 school year.*

Trends From District Monitoring Visits in 2019



Green Light Trends

- ▶ Positive Behavioral Interventions and Supports (PBIS) exploration and/or implementation in many schools.
- ▶ Increased counseling services in school settings to support trauma and mental health needs of students.
- ▶ Core teams established as required by 704 KAR 7:160 with more dedicated training
- ▶ Collaboration with partners for additional support / coaching.



Trends From District Monitoring Visits in 2019



Yellow Light Trends

- ▶ Lack of PBIS implementation with fidelity.
- ▶ ARC meetings not held to discuss problem behavior – often waiting until behavior escalates.
- ▶ The Positive Approach to Student Success (PASS) program not implemented as intended or with fidelity.
- ▶ Little time for district-wide leadership team data discussion and trend analysis.



Trends From District Monitoring Visits in 2019



Red Light Trends (1)

- ▶ Excessive physical restraints reported without ARC meetings conducted.
- ▶ Lack of manifestation determination ARC meetings held when change of placement occurs or at the 11th day of removal – lack of understanding for manifestation determination requirements.



Trends From District Monitoring Visits in 2019



Red Light Trends (2)

- ▶ IEPs do not show clear linkage to the function of student problem behavior.
- ▶ Lack of FBAs conducted and lack of appropriate Behavior Intervention Plans (BIPs).
- ▶ Data being entered into IC using wrong codes or using district codes that are improperly mapped to state codes.



Trends From District Monitoring Visits in 2019

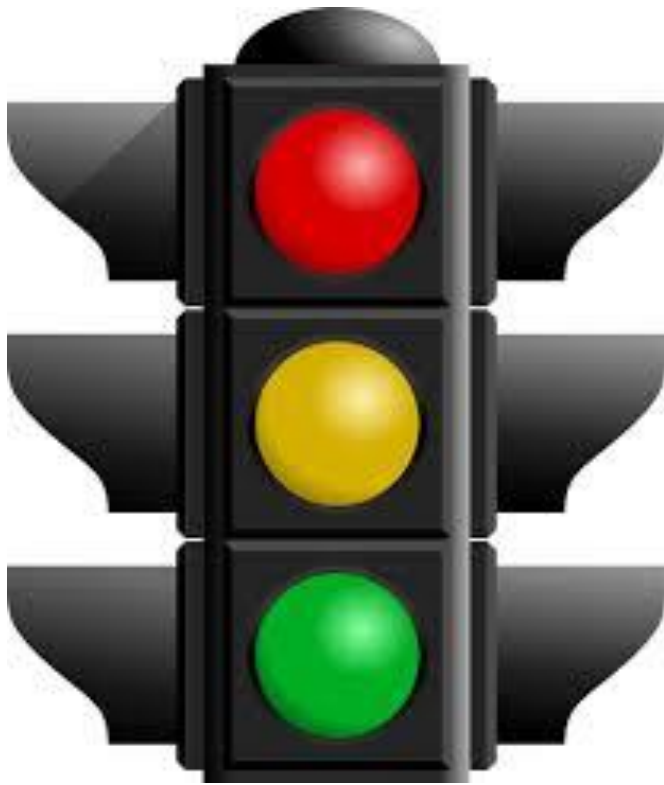


Red Light Trends (3)

- ▶ Limited evidence of all tiers of PBIS implementation with fidelity, particularly individualized supports for student's with IEPs.
- ▶ PASS program used as in-school suspension, denying access to the general curriculum.



Trends From District Monitoring Visits in 2019



Red Light Trends (4)

- ▶ Alternative schools being used inappropriately for students with disabilities – lack of specially designed instruction (SDI) and related services along with inappropriate least restrictive environment (LRE) resulting in denials of a FAPE.



Project Link Teaming

Angela Sheely – Intervention Coordinator

- ▶ Project Link Teaming originated from the State Personnel Development Grant (SPDG).
- ▶ SPDG is a competitive 5-year federal grant, which was awarded in October 2017 by the U.S. Department of Education's Office of Special Education (OSEP).
- ▶ Receiving this grant provided an opportunity for KDE to partner with monitored districts to strengthen systems and, ultimately, resulting in positive student outcomes.



Project Link Teaming (*Continued*)

- ▶ After the Corrective Action Plan (CAP) has been jointly developed and approved by OSEEL: Project Link Teaming KDE liaison collaborates with the KDE CAP lead and the local Director of Special Education (DoSE).
- ▶ A face-to face meeting is scheduled with district leaders, including the Director of the Regional Special Education Cooperative.
- ▶ Technical assistance (TA) for addressing systemic issues through the use of implementation science.



Project Link Teaming (*Continued*)

- ▶ Per research, a major factor for system change, implementation, and substantiality is having an effective team.
 - coach districts in understanding/forming effective leadership/implementation teams;
 - support is tailored depending on the need of the district.
- ▶ Coach districts with including PBIS and discipline data as part of their data driven process.
- ▶ PBIS coaching/training at school level, if needed.



Project Link Teaming (*Continued*)

- ▶ Support continues for the duration of the one-year CAP timeline.
- ▶ At the close of the CAP, the district has an opportunity to continue receiving TA.



Questions or Comments

Gretta Hylton

Associate Commissioner

Office of Special Education and Early
Learning

(502) 564-4970

Gretta.Hylton@education.ky.gov

Angie Sheely

Intervention Coordinator

Division of IDEA Implementation and
Preschool

Office of Special Education and Early
Learning

(502) 564-4970

Angela.Sheely@education.ky.gov



Five Things To Know Before You Go

- ❖ School Report Card Financial Transparency Domain Opens in April – [School Report Card Resources page](#)
- ❖ School Health Professional Development Survey – DEADLINE April 19 – [this survey link](#)
- ❖ ESSA Schoolwide Flexibility – david.millanti@education.ky.gov
- ❖ Elevating Evidence – Meeting ESSA's Evidence-based Requirements – <https://www.surveymonkey.com/r/PPWZHT7>
- ❖ Next Webcast is April 16 – Accountability Update



